

STATE OF MICHIGAN  
COURT OF APPEALS

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GREG FLEMING, WILLIAM SUSICK, MAX  
FELLSMAN, and EDWARD F. COOK,

UNPUBLISHED  
March 27, 2007

Plaintiffs-Appellants,

v

MACOMB COUNTY CLERK,

No. 273502  
Macomb Circuit Court  
LC No. 06-004256-AW

Defendant-Appellee.

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Before: Cooper, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Plaintiffs appeal by leave granted from the trial court's order denying their motion for a preliminary injunction. We dismiss the appeal as moot.

This case arose after the Macomb County Board of Commissioners passed a resolution that directed defendant to mail absent voter ballot applications to Macomb County registered voters who were 60 years of age or older for the 2006 November election. Plaintiffs sought a preliminary injunction to enjoin defendant from conducting the unsolicited mailing, which was denied. The mass mailing was conducted. Leave to appeal was sought and granted.

Plaintiffs argue that their request for preliminary injunction should have been granted because defendant, a county clerk, did not have the implied authority to conduct an unsolicited mailing of absent voter ballot applications. Plaintiffs also claim that the issue is not moot but, even if it is, the issue involves a question of public significance that is likely to recur and evade judicial review.

"Where the act that is sought to be enjoined has already been performed, an appeal is moot." *Kent Co Aeronautics Bd v Dep't of State Police*, 239 Mich App 563, 584; 609 NW2d 593 (2000). That is, when an event occurs that renders it impossible for a reviewing court to grant the requested relief, the issue or case is considered moot. *Contesti v Attorney Gen.*, 164 Mich App 271, 278; 416 NW2d 410 (1987). As a general rule, an appellate court will not consider moot issues or decide moot cases. *East Grand Rapids School Dist v Kent Co Tax Allocation Bd*, 415 Mich 381, 390; 330 NW2d 7 (1982). However, this Court will decide cases that are technically moot if the issues involved are of public significance and are likely to recur in the future, yet evade judicial review. *Socialist Workers Party v Secretary of State*, 412 Mich 571, 582 n 11; 317 NW2d 1 (1982).

Here, plaintiffs requested the trial court to enjoin defendant from mailing unsolicited absent ballot applications. Plaintiffs' motion for a preliminary injunction was denied, and defendant proceeded with the mailing. Obviously, we cannot grant plaintiffs their requested relief; therefore, the issue is moot. See *Kent Co Aeronautics Bd, supra*. And, although publicly significant, the challenged action—the county clerk conducting an unsolicited mailing of absent voter ballot applications—is not likely to recur and yet evade judicial review. In fact, plaintiffs' complaint for declaratory relief, permanent injunction, and writ of mandamus are pending in the trial court. There is no indication that defendant will mail additional absent voter ballot applications before resolution of the case or that plaintiffs will suffer additional harm from defendant's actions. Accordingly, we decline to consider the merits of this appeal.

Dismissed as moot.

/s/ Jessica R. Cooper  
/s/ Mark J. Cavanagh  
/s/ Patrick M. Meter